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10/601,249	06/20/2003	Cynthia Kae Florkey	LUC-412/Florkey 6-6-14-6-	6690
32205	7590	06/18/2007	EXAMINER	
PATTI, HEWITT & AREZINA LLC ONE NORTH LASALLE STREET 44TH FLOOR CHICAGO, IL 60602			COULTER, KENNETH R	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/601,249	Applicant(s) FLORKEY ET AL.	
	Examiner Kenneth R. Coulter	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 23 is objected to because of the following informalities:

“a tone an a light” (claim 23).

Appropriate correction is required.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 20 is directed to instructions that are not implemented on a computer-readable storage medium.

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure

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and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Lang (U.S. Pat. Pub. No. 2005/0078612) (Method and Apparatus for Providing Extended Call Setup and Control Features Using a Short Message Service) (also see U.S. Pat. App. No. 60/330751, filed 10/30/01).

4.1 Regarding claim 1, Lang discloses an apparatus, comprising:

an application server component that receives an indication of one or more communication devices that are to receive one or more invitations to join a communication session (Abstract; paragraphs 13; 17; 51);

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wherein the one or more invitations comprise a phone call, a photo, and a short message service (SMS) message (paragraph 51 “the conference scheduler database application 29 schedules the conference call by **sending SMS text messages** to the proposed participants, who may accept or decline the conference call invitation.”; paragraph 16 “Participants who may wish to participate in a conference call but do not have SMS capability may interact with the system using other suitable electronic text message means, **such as e-mail or by voice using a dial-up IVR unit.**”);

wherein the application server component notifies the one or more communication devices of the one or more invitations to join the communication session (Abstract; paragraphs 13, 17, 51);

wherein upon acceptance of at least one of the one or more invitations by at least one of the one or more communication devices, the application server component connects the at least one of the one or more communication devices to the communication session (Abstract; Fig. 1, item 28; paragraphs 13, 17, 43, 44, 51).

4.2 Per claim 2, Lang teaches the apparatus of claim 1, wherein the one or more communication devices comprise one or more first communication devices; wherein the application server component receives the indication of the one or more first communication devices from one or more second communication devices (Abstract; Fig. 1, item 28; paragraphs 43, 44).

4.3 Regarding claim 3, Lang discloses the apparatus of claim 2, wherein the one or

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more second communication devices are involved in the communication session; wherein the application server component notifies the one or more first communication devices of the one or more invitations to join the communication session with the one or more second communication devices (Abstract; Fig. 1, item 28; paragraphs 13, 17, 43, 44, 51).

4.4 Per claim 4, Lang teaches the apparatus of claim 3, wherein the application server component identifies a match between the one or more invitations and the acceptance of the one or more of the one or more invitations; wherein the application server component employs the match to indicate to one or more control components a call identification of the communication session (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51); wherein the one or more control components employ the call identification to connect the one or more of the one or more first communication devices to the one or more second communication devices in the communication session (Abstract; Fig. 1, item 28; paragraphs 13, 17, 43, 44, 51).

4.5 Regarding claim 5, Lang discloses the apparatus of claim 2, wherein the one or more first communication devices comprise a communication device, wherein the application server component activates an indicator of an invitation of the one or more invitations on the communication device, wherein the indicator persists until an action occurs on the invitation (paragraphs 16, 164).

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4.6 Per claim 6, Lang teaches the apparatus of claim 5, wherein the indicator persists on a display of the communication device, wherein upon the acceptance of the invitation by the communication device, the user of the communication device employs the indicator to initiate a connection to the communication session; wherein the application server component connects the communication device to the communication session (paragraphs 16, 164).

4.7 Regarding claim 7, Lang discloses the apparatus of claim 5, wherein the action comprises an acceptance of the invitation by the communication device (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51); wherein upon receipt of the acceptance of the invitation by the communication device, the application server component sends one or more notifications of the acceptance of the invitation by the communication device to the one or more second communication devices (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51).

4.8 Per claim 8, Lang teaches the apparatus of claim 5, wherein the action comprises a withdrawal of the invitation by one or more of the one or more second communication devices; wherein prior to an acceptance of the invitation, the one or more of the one or more second communication devices send the withdrawal to the application server component (Abstract; Fig. 1; paragraphs 183, 184).

4.9 Regarding claim 9, Lang discloses the apparatus of claim 8, wherein upon

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receipt of the withdrawal, the application server component removes the indicator of the invitation from the communication device (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51, 183, 184).

4.10 Per claim 10, Lang teaches the apparatus of claim 5, wherein the action comprises a rejection of the invitation by the communication device (paragraphs 51, 96); wherein prior to an acceptance of the invitation, the communication device sends the rejection to the application server component (paragraphs 51, 96).

4.11 Regarding claim 11, Lang discloses the apparatus of claim 10, wherein upon receipt of the rejection, the application server component sends one or more notifications of the rejection to the one or more second communication devices (paragraphs 51, 96).

4.12 Per claim 12, Lang teaches the apparatus of claim 5, wherein the action comprises a completion of the communication session (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51); wherein upon completion of the communication session prior to an acceptance of the invitation, the application server component sends a notification to the communication device of the completion of the communication session; wherein the application server component removes the indicator of the invitation from the communication device (Abstract; Fig. 1; paragraphs 13, 17, 43, 44, 51).

4.13 Regarding claim 13, Lang discloses the apparatus of claim 1, wherein the communication session comprises a voice conference call, wherein upon acceptance of an invitation of the one or more invitations by a communication device of the one or more communication devices, the application server component connects a user of the communication device into a voice conversation with one or more participants in the communication session (Fig. 1; paragraphs 32, 37, 38).

4.14 Per claims 14 – 20, the rejection of claims 1 – 13 under 35 USC 102(e) (paragraphs 4.1 – 4.13 above) applies fully.

4.15 Regarding claim 21, Lang discloses the apparatus of claim 1, wherein the communication session comprises a data session or a voice conference call (Fig. 1; paragraphs 32, 37, 38).

4.16 Per claim 22, Lang teaches the apparatus of claim 1, wherein the indication comprises a phone number, an email address or an instant message account name (paragraph 13 “identify each participant by telephone number”; paragraph 62, 91).

4.17 Regarding claim 23, Lang discloses the apparatus of claim 5, wherein the indicator comprises an icon number, a tone, or a light (paragraphs 16, 164 “prompted”).

Response to Arguments

5. Applicant's arguments with respect to claims 1 – 23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on M - F, 7:30 am - 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

krc

KENNETH R. COULTER
PRIMARY EXAMINER
